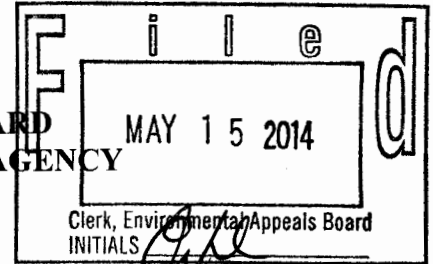


BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.



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In re: )  
          ) RCRA (3008) Appeal No. 14-01  
Hagerstown Aircraft Services, Inc. )  
          )  
Docket No. RCRA-03-2011-0112 )  
          )

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**ORDER ELECTING TO EXERCISE SUA SPONTE REVIEW**

On June 27, 2013, U.S. EPA Regional Judicial Officer Renée Sarajian (“RJO”) issued an Initial Decision and Default Order (“Default Order”) finding Hagerstown Aircraft Services, Inc. (“HAS”) liable for violating the Resource Conservation and Recovery Act and corresponding regulations and assessing a \$64,000 penalty. On August 5, 2013, HAS filed with the Environmental Appeals Board (“Board”) a Motion to Set Aside Default Order and Temporarily Stay Proceedings (“Motion”) in the case. The Board, recognizing that the Motion should have been filed with the RJO, transferred it to the Regional Hearing Clerk to ensure its timely filing. *See In re Hagerstown Aircraft Servs., Inc.*, RCRA (3008) Appeal No. 13-01, at 2 (EAB Aug. 15, 2013) (Order Transferring Motion to Set Aside Default Order). Following the transfer, the RJO considered HAS’s Motion and, on April 3, 2014, issued an order denying the Motion. *See In re Hagerstown Aircraft Servs., Inc.*, Docket No. RCRA-03-2011-0112, at 10 (RJO Apr. 3, 2014) (Order on Respondent’s Motion to Set Aside Default Order and Temporarily Stay Proceedings).

Upon examination of the Default Order and the Order on Respondent’s Motion to Set Aside Default Order and Temporarily Stay Proceedings, the Board has decided to exercise *sua*


*sponte* review, pursuant to 40 C.F.R. §§ 22.27(c)(4), .30(b).<sup>1</sup> Accordingly, this order constitutes notice, required under 40 C.F.R. § 22.30(b), of the Board's intent to review the Default Order and the associated Order on Respondent's Motion to Set Aside Default Order and Temporarily Stay Proceedings.

The Board does not require briefing from the parties at this time. If the Board decides further briefing is appropriate, it will issue a subsequent order.

So Ordered.<sup>2</sup>

ENVIRONMENTAL APPEALS BOARD

Dated: MAY 15 2014

By:   
Randolph L. Hill  
Environmental Appeals Judge

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<sup>1</sup> Under the regulations governing the administrative assessment of civil penalties, 40 C.F.R. part 22, the Board has 45 days after service of an initial decision to elect to exercise *sua sponte* review. 40 C.F.R. §§ 22.27(c), .30(b). As the Board explained in its August 15, 2013 Order, motions to set aside default orders stay the running of the time period for appealing default orders to the Board, and thus the ALJ's order denying or dismissing the motion marks the starting point for the 30-day appeal period instead. Order Transferring Motion to Set Aside Default Order at 3 (citing *In re JHNY, Inc.*, 12 E.A.D. 372, 381-82 n.14 (EAB 2005); *In re B&L Plating, Inc.*, 11 E.A.D. 183, 190 (EAB 2003); 40 C.F.R. §§ 22.7(c)). Such motions likewise stay the running of the time period (and reset it) for the Board to decide whether or not to review an initial decision under 40 C.F.R. § 22.30(b). Consequently, in the current situation, the Board had 45 days from April 3, 2014, the date of the RJO's Order on Respondent's Motion to Set Aside Default Order and Temporarily Stay Proceedings, to elect *sua sponte* review. The Board's deadline therefore is May 18, 2014.

<sup>2</sup> The three-member panel deciding this matter is comprised of Environmental Appeals Judges Leslye M. Fraser, Randolph L. Hill, and Catherine R. McCabe. See 40 C.F.R. § 1.25(e)(1).

## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order Electing to Exercise Sua Sponte Review** in the matter of *Hagerstown Aircraft Services, Inc.*, RCRA (3008) Appeal No. 14-01, were sent to the following persons in the manner indicated:

**By First Class Mail:**

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**By EPA Pouch Mail:**

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Date:           MAY 15 2014          

  
Annette Duncan  
Secretary